



1 CPMC did not have a duty to inform Plaintiff of the FDA's  
2 August 2010 correspondence, which renders invalid Plaintiff's  
3 cause of action for negligence as to CPMC. *Derrick v. Ontario*  
4 *Community Hospital*, 47 Cal.App.3d 145 (1975). Moreover, this  
5 is essentially a product liability action, and under California  
6 law, a medical provider such as CPMC cannot be held strictly  
7 liable for product defects. *Silverhart v. Mount Zion Hospital*,  
8 20 Cal.App.3d 1022 (1971). Finally, Plaintiff's punitive  
9 damages claim is legally and factually unsubstantiated and  
10 insufficiently pled against CPMC, a California corporation.

11 Therefore, the Second, Ninth, and Tenth Causes of  
12 Action, and plaintiff's punitive damages claim are dismissed  
13 without leave to amend.

14 **IT IS SO ORDERED.**

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